

Documents on Diplomacy: The Source

Treaty Between the United States and Great Britain for the Suppression of the Slave Trade

April 7, 1862

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA: A PROCLAMATION.

WHEREAS a treaty between the United States of America and her Majesty the Queen of the United Kingdom of Great Britain and Ireland was concluded and signed by their respective Plenipotentiaries, at the city of Washington, on the seventh day of April last, which treaty is, word for word, as follows:

Treaty between the United States of America and her Majesty the Queen of the United Kingdom of Great Britain and Ireland, for the suppression of the African slave trade.

The United States of America and her Majesty the Queen of the United Kingdom of Great Britain and Ireland, being desirous to render more effectual the means hitherto adopted for the suppression of the slave trade carried on upon the coast of Africa, have deemed it expedient to conclude a treaty for that purpose, and have named as their Plenipotentiaries, that is to say:

The President of the United States of America, William H. Seward, Secretary of State;

And her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the right honorable Richard Bickerton Pernell, Lord Lyons, a peer of her United Kingdom, a knight grand cross of her most honorable Order of the Bath, and her Envoy Extraordinary and Minister Plenipotentiary to the United States of America;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

ARTICLE I.

The two high contracting parties mutually consent that those ships of their respective navies which shall be provided with special instructions for that purpose, as hereinafter mentioned, may visit such merchant vessels of the two nations as may, upon reasonable grounds, be suspected of being engaged in the African slave trade, or of having been fitted out for that purpose; or of having,

during the voyage on which they are met by the said cruisers, been engaged in the African slave trade, contrary to the provisions of this treaty; and that such cruisers may detain, and send or carry away, such vessels, in order that they may be brought to trial in the manner hereinafter agreed upon.

In order to fix the reciprocal right of search in such a manner as shall be adapted to the attainment of the object of this treaty, and at the same time avoid doubts, disputes, and complaints, the said right of search shall be understood in the manner and according to the rules following:

First. It shall never be exercised except by vessels of war, authorized expressly for that object, according to the stipulations of this treaty.

Secondly. The right of search shall in no case be exercised with respect to a vessel of the navy of either of the two Powers, but shall be exercised only as regards merchant-vessels; and it shall not be exercised by a vessel of war of either contracting party within the limits, of a settlement or port, nor within the territorial waters of the other party.

Thirdly. Whenever a merchant-vessel is searched by a ship of war, the commander of the said ship shall, in the act of so doing, exhibit to the commander of the merchant-vessel the special instructions by which he is duly authorized to search; and shall deliver to such commander a certificate, signed by himself, stating his rank in the naval set of his country, and the name of the vessel he commands, and also declaring that the only object of the search is to ascertain whether the vessel is employed in the African slave trade, or is fitted up for the said trade. When the search is made by an officer of the cruiser who is not the commander, such officer shall exhibit to the captain of the merchant-vessel a copy of the before-mentioned special instructions, signed by the commander of the cruiser; and he shall in like manner deliver a certificate signed by himself, stating his rank in the navy, the name of the commander by whose orders he proceeds to make the search, that of the cruiser in which he sails, and the object of the search, as above described. If it appears from the search that the papers of the

vessel are in regular order, and that it is employed on lawful objects, the officer shall enter in the log-book of the vessel that the search has been made in pursuance of the aforesaid special instructions, and the vessel shall be left at liberty to pursue its voyage. The rank of the officer who makes the search must not be less than that of lieutenant in the navy, unless the command, either by reason of death or other cause, is at the time held by an officer of inferior rank.

Fourthly. The reciprocal right of search and detention shall be exercised only within the distance of two hundred miles from the coast of Africa, and to the southward of the thirty-second parallel of north latitude, and within thirty leagues from the coast of the Island of Cuba.

ARTICLE II

In order to regulate the mode of carrying the provisions of the preceding article into execution, it is agreed-

First. That all the ships of the navies of the two nations which shall be hereafter employed to prevent the African slave trade shall be furnished by their respective Governments with a copy of the present treaty, of the instructions for cruisers annexed thereto, (marked A,) and of the regulations for the mixed courts of justice annexed thereto, (marked B.) which annexes respectively shall be considered as integral parts of the present treaty.

Secondly. That each of the high contracting parties shall, from time to time, communicate to the other the names of the several ships furnished with such instructions, the force of each, and the names of their several commanders. The said commanders shall hold the rank of captain in the navy, or at least that of lieutenant; it being nevertheless understood that the instructions originally issued to an officer holding the rank of lieutenant of the navy, or other superior rank, shall, in case of his death or temporary absence, be sufficient to authorize the officer on whom the command of the vessel has devolved to make the search, although such officer may not hold the aforesaid rank in the service.

Thirdly. That if at any time the commander of a cruiser of either of the two nations shall suspect that any merchant-vessel Elder the escort or convoy of any ship or ships-of-war of the other nation carries Negroes on board, or has been engaged in the African slave trade, or is fitted out for the purpose thereof, the commander of the cruiser shall communicate his suspicions to the commander of the convoy, who, accompanied by the commander of the cruiser, shall proceed to the search of the suspected vessel; and in case the suspicions appear well founded, according to the tenor of this treaty, then the said vessel shall be conducted or sent to one of the places where the mixed courts of justice are stationed, in order that it may there be adjudicated upon.

Fourthly. It is further mutually agreed that the commanders of the ships of the two navies, respectively, who shall be employed on this service, shall adhere strictly to the exact tenor of the aforesaid instructions.

ARTICLE III

As the two preceding articles are entirely reciprocal, the two high contracting parties engage mutually to make good any losses which their respective subjects or citizens may incur by an arbitrary and illegal detention of their vessels; it being understood that this indemnity shall be borne by the Government whose cruiser shall have been guilty of such arbitrary and illegal detention; and that the search and detention of vessels specified in the first article of this treaty shall be effected only by ships which may form part of the two navies, respectively, and by such of those ships only as are provided with the special instructions annexed to the present treaty, in pursuance of the provisions thereof. The indemnification for the damages of which this article treats shall be paid within the term of one year, reckoning from the day in which the mixed court of justice pronounces its sentence.

ARTICLE IV

In order to bring to adjudication with as little delay and inconvenience as possible, the vessels which may be detained according to the tenor of the first article of this treaty, there shall be established, as soon as may be practicable, three mixed courts of justice, formed by an equal number of individuals of the two nations, named for this purpose by their respective Governments. These courts shall reside, one at Sierra Leone, one at the Cape of Good Hope, and one at New York.

But each of the two high contracting parties reserves to itself the right of changing, at its pleasure, the place of residence of the court or courts held within its own territories.

These courts shall judge the causes submitted to them according to the provisions of the present treaty, and according to the regulations and instructions which are annexed to the present treaty, and which are considered an integral part thereof; and there shall be no appeal from their decision.

ARTICLE V

In case the commanding officer of any of the ships of the navies of either country, duly commissioned according to the provisions of the first article of this treaty, shall deviate in any respect from the stipulations of the said treaty, or from the instructions annexed to it, the Government which shall conceive itself to be wronged thereby shall be entitled to demand reparation; and in such case the Government to which such commanding officer may belong binds

itself to cause inquiry to be made into the subject of the complaint, and to inflict upon the said officer a punishment proportioned to any wilful transgression which may be proved to have committed.

ARTICLE VI

It is hereby further mutually agreed, that every American or British merchant-vessel which shall be searched by virtue of the present treaty may lawfully be detained, and sent or brought before the mixed courts of justice established in pursuance of the provisions thereof, if, in her equipment, there shall be found any of the things hereinafter mentioned, namely:

First. Hatches with open gratings, instead of the close hatches, which are usual in merchant vessels.

Second. Divisions or bulk-heads in the hold or on deck, in greater number than are necessary for vessels engaged in lawful trade.

Third. Spare plank fitted for laying down as a second or slave deck.

Fourth. Shackles, bolts, or handcuffs.

Fifth. A larger quantity of water in casks or in tanks than is requisite for the consumption of the crew of the vessel as a merchant-vessel.

Sixth. An extraordinary number of water casks, or of other vessels for holding liquid; unless the master shall produce a certificate from the custom-house at the place from which he cleared outwards, stating that a sufficient security had been given by the owners of such vessel that such extra quantity of casks, or of other vessels should be used only to hold palm oil, or for other purposes of lawful commerce.

Seventh. A greater number of mess-tubs or kids than requisite for the use of the crew of the vessel as a merchant-vessel.

Eighth. A boiler, or other cooking apparatus, of an unusual size, and larger, or capable of being made larger, than requisite for the use of the crew of the vessel as a merchant-vessel; or more than one boiler, or other cooking apparatus, of the ordinary size.

Ninth. An extraordinary quantity of rice, of the flour of Brazil, of maniac or cassada, commonly called farinha, of maize, or of Indian corn, or of any other article of food whatever, beyond the probable wants of the crew; unless such rice, flour, farinha, maize, Indian corn, or other article of food, be entered on the manifest as part of the cargo for trade.

Tenth. A quantity of mats of matting greater than is necessary for the use of the crew of the vessel as a merchant-vessel, unless

such mats or matting be entered on the manifest as part of the cargo for trade.

If it be proved that any one or more of the articles above specified is or are on board, or have been on board during the voyage in which the vessel was captured, that fact shall be considered as *prima facie* evidence that the vessel was employed in the African slave trade, and she shall in consequence be condemned and declared lawful prize; unless the master or owners shall furnish clear and incontrovertible evidence, proving to the satisfaction of the mixed court of justice, that at the time of her detention or capture the vessel was employed in a lawful undertaking, and that such of the different articles above specified as were found on board at the time of detention, or as may have been embarked during the voyage on which she was engaged when captured, were indispensable for the lawful object of her voyage.

ARTICLE VII

If any one of the articles specified in the preceding article as grounds for condemnation should be found on board a merchant-vessel, or should be proved to have been on board of her during the voyage on which she was captured, no compensation for losses, damages, or expenses consequent upon the detention of such vessel, shall in any case be granted either to the master, the owner, or any other person interested in the equipment or in the lading, even though she should not be condemned by the mixed court of justice.

ARTICLE VIII

It is agreed between the two high contracting parties, that in all cases in which a vessel shall be detained under this treaty, by their respective cruisers, as having been engaged in the African slave trade, or as having been fitted out for the purposes thereof, and shall consequently be adjudged and condemned by one of the mixed courts of justice to be established as aforesaid, the said vessel shall, immediately after its condemnation, be broken up entirely, and shall be sold in separate parts, after having been so broken up; unless either of the two Governments should wish to purchase her for the use of its navy, at a price to be fixed by a competent person chosen for that purpose by the mixed court of justice, in which case the Government whose cruiser shall have detained the condemned vessel shall have the first option of purchase.

ARTICLE IX

The captain, master, pilot, and crew of any vessel condemned by the mixed courts of justice shall be punished according to the laws of the country to which such vessel belongs, as shall also the owner

or owners and the persons interested in her equipment or cargo, unless they prove that they had no participation in the enterprise.

For this purpose, the two high contracting parties agree that, in so far as it may not be attended with grievous expense and inconvenience, the master and crew of any vessel which may be condemned by a sentence of one of the mixed courts of justice, as well as any other persons found on board the vessel, shall be sent and delivered up to the jurisdiction of the nation under whose flag the condemned vessel was sailing at the time of capture; and that the witnesses and proofs to establish the guilt of such master, crew, or other persons, shall also be sent with them.

The same course shall be pursued with regard to subjects or citizens of either contracting party who may be found by a cruiser of the other on board a vessel of any third Power, or on board a vessel sailing without flag or papers, which may be condemned by any competent court for having engaged in the African slave trade.

ARTICLE X

The Negroes who are found on board of a vessel condemned by the mixed courts of justice, in conformity with the stipulations of this treaty, shall be placed at the disposal of the Government whose cruiser has made the capture; they shall be immediately set at liberty, and shall remain free, the Government to whom they have been delivered guarantying their liberty.

ARTICLE XI

The acts or instruments annexed to this treaty, and which it is mutually agreed shall form an integral part thereof, are as follows:

(A.) Instructions for the ships of the navies of both nations, destined to prevent the African slave trade.

(B.) Regulations for the mixed courts of justice.

ARTICLE XII

The present treaty shall be ratified, and the ratifications thereof shall be exchanged at London in six months from this date, or sooner if possible. It shall continue and remain in full force for the term of ten years from the day of exchange of the ratifications, and further, until the end of one year after either of the contracting parties shall have given notice to the other of its intention to terminate the same, each of the contracting parties reserving to itself the right of giving such notice to the other at the end of said term of ten years: And it is hereby agreed between them, that, on the expiration of one year after such notice shall have been received by either from the other party, this treaty shall altogether cease and determine.

In witness whereof the respective plenipotentiaries have signed the present treaty, and have "hereunto affixed the seal of their-arms.

Done at Washington the seventh day of April, in the year of our Lord one thousand eight hundred and sixty-two.

[L. S.] WILLIAM H. SEWARD.

[L. S.] LYONS.

Source

The Avalon Project: Documents in Law, History, and Diplomacy, Yale Law School, Lillian Goldman Law Library. *Statutes of the United States*, Vol. 12

http://avalon.law.yale.edu/19th_century/br1862.asp